In the High Court of Judicature at Madras

Dated:28.06.2006

Coram:

The Hon'ble Mr. Justice P. Sathasivam
and
The Hon'ble Mr. Justice V. DHANAPALAN

O.S. Appeal No.205 of 2006
And MP.No.1 of 2006

A. Abdul Rahim .. Appellant (Respondent)

vs.

Baree Trading Company
rep. by its Senior Partner
A.A. Mohsmef Yousuf Gani &
S.A. Abdul Rasheed
42-A Model School Road
2nd Floor Thousand Lights
Chennai 600 006. .. Respondent (Petitioner)

Original Side Appeal is preferred against the order dated 17.02.2006 made in Original Petition No.506 of 2005, on the file of this Court.

For appellant : Mr. R. Muthukumarasamy,Sr.counsel
for Mr. C. Rajan

JUDGMENT

(Judgment of the Court was delivered by P. Sathasivam,J.)

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Aggrieved by the order of the Hon'ble Chief Justice dated 17.02.2006 made in O.P.No.506 of 2005, appointing an Arbitrator, the appellant has filed the above appeal.

2. Heard Mr. R. Muthukumarasamy, learned senior counsel for the appellant.

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3. In view of the recent decision of the Hon'ble Supreme Court in the case of S.B.P. & Co., vs. Patel Engineering Ltd., reported in 2005 (5) CTC 302, we are of the view that the present appeal before this Court is not maintainable. In this regard it is useful to refer para 46 (vii) in the order of the above cited reference.

> "46. (vii) Since an order passed by the Chief Justice of the High court or by the designated Judge of that Court is a judicial order, an appeal will lie against that order only under Article 136 of the Constitution of India to the Supreme court. "

In view of the law declared by the Supreme Court, the only remedy available to the aggrieved person is that against the order of the Hon'ble Chief Justice or by the designated Judge, he has to move the Supreme Court under Article 136 of the constitution of India. On this ground this appeal is dismissed as not maintainable. No costs. Consequently, connected MP., is also dismissed.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To
The Sub Assistant Registrar
Original Side
High Court, madras

+ 2 ccs to Mr. C. Rajan, Advocate sr no. 27674

PV(CO)
NM(03.07.2006)

Judgment in
O.S.A.No.205 of 2006

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